IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P. NO. 1674 / 2001

Petitioner : M/s N.C.Nahar,
Approved Government, Semi Govt. Contractor,Through : N.C.Nahar S/o Late Shri C.L.Nahar, aged about 65 years, Proprietor of the firm, R/o Malviya Nagar, Durg, Dist : Durg – (C.G.)

Versus

Respondents :

1. State of Chhattisgarh Through : Secretary Water Resource Development, D.K. Bhawan, Raipur – (C.G.)
2. Engineer in Chief, Water Resource Development, Raipur – (C.G.)
3. Chief Engineer, Mahanadi Godavari Basin, Raipur – (C.G.)
4. Executive Engineer, Mohdipaat Project, Division : Durg, Dist : Durg – (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

(39)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. No. 1674/01 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	30.9.2004 Shri P. Diwaker, Advocate with Kum. Pratha Ghoshal, counsel for the petitioner. Shri Sanjay S. Agrawal, Government Advocate for the State/ respondents. By this writ petition under Article 226/227 of the Constitution of India, the petitioner seeks to challenge the action of respondent No.2 whereby the tender document of the petitioner has been rejected. The petitioner's petition is that he is an approved Government contractor, registered as A-V Class Contractor of Water Resources Department and the registration certificate is Annexure A-1. The petitioner's firm has successfully completed various works of the Government. The respondents have invited sealed tenders for the Government work from the qualified contractors for which the petitioner had applied. The rates quoted by the petitioner's firm were the lowest, but the work has not been assigned on the ground that the petitioner during the last five years has not done the Government work, as during the past five years no work was assigned by the Government to the contractors because the financial position of the Government was not conducive as per their own statements. When the Government itself has not invited the tenders in past five years then how can they lay down a condition for contractor to have the said experience for the past five years? The criteria fixed by the Government do not say that a contractor should have experience of five	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

years with the Government work. The annexed document Annexure A-5 makes it very clear that the petitioner is one of the most experienced contractors of the State of Chhattisgarh. The respondents are going to open the tenders on 14.9.2001 for judging pre-qualification and there is every likelihood that the petitioner will be disqualified; if the lowest rates of the petitioner are not considered, then the work would be given to some other persons who are the choice of the respondents.

Return has been filed on behalf of the State/respondents in which it has been mentioned that the Government in order to streamline the process of tendering, the State Government had amended the procedures for invitation of tenders, sale of tender forms and the procedure for receiving and opening of the tender documents by its order dated 27.4.2001 (Annexure R-1) and according to that, the contractors would be required to submit three envelopes for the estimated cost of work exceeding Rs.60 lakhs. These envelopes should be marked as A, B and C. Envelope A shall contain the certificate of registration, income tax certificate and earnest money. Envelope B shall contain the documents regarding pre-qualification of the concerned contractor. Envelope C shall contain the final bid. If the concerned contractor is not found qualified upon opening of envelope B on evaluation of the documents, envelope C would not be opened. Along with the tender document all the contractors were supplied with a copy of letter dated 30.4.2001, which also contains such instructions. In response to the notice inviting tender, eight contractors submitted their tender documents

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...विरुद्ध...

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

to the Department, which were opened by the Chief Engineer as pre-decided on 7.9.2001. In respect of M/s. Bafna Earth Movers Limited, Durg, envelope B which contains pre-qualification was not found and in respect of the present petitioner as the petitioner had himself written a note on envelope B that the same also contains the financial bid documents, envelope B was not opened. The petitioner was disqualified because he had not submitted the financial bid documents in a separate envelope. Copy of the letter of Chief Engineer is Annexure R-3. Therefore, the petition deserves to be dismissed.

I have heard learned counsel for the parties and perused the record.

As per the record and procedure, the petitioner was required to submit three envelopes as mentioned above. Instead of submitting three envelopes separately, the petitioner mentioned on envelope B i.e. for pre-qualification that financial bid also is in envelope B. Therefore, as per the terms and conditions of the tender, the same was not opened and it was rejected on that ground. As the petitioner had not complied with the terms and conditions of the N.I.T., therefore, his N.I.T. was rightly rejected and I do not find any illegality or irregularity in the decision of the respondents.

In the circumstances, the petition is liable to be dismissed and the same is accordingly, dismissed.

Consequently, I.A.No.3413/2001 stands disposed of.

Sd/-
L.C.BHADOO
Judge

Soma/Padma

[पीछे देखिये